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## THE LEAGUE OF WOMEN VOTERS *of New York State*

### New York State Senate Public Hearing on Foundation Aid

December 3, 2019

Good afternoon. I am Marian Bott, Education Finance Issue Specialist for the New York State League of Women Voters.<sup>1</sup> With me today is Mary Jenkins, co-chair of our New York City League's Education Committee.<sup>2</sup> With the panel's permission we will also submit Mary's testimony. Mary has a lifetime of professional experience in our New York City public schools, and we wanted you to be aware of her committee's work on civic engagement of students in our schools.

As the League's resident and long-time funding formula researcher, today I will follow up on our February 2019 testimony in Albany, and specifically for this hearing, focus on the weightings in the poverty feature of Foundation Aid. While the League concurs with those who observe that the larger issue is a long-standing failure to phase in Foundation Aid as originally designed, nearly thirteen years later it has now become evident that poor, outdated poverty metrics are also part of the problem. Policymakers began to recognize this last year by introducing Direct Certification poverty measures into the Tiers for Foundation Aid. Direct Certification refers to a process whereby school business officials garner data collected by other governmental agencies which "directly" obtain data from families whose children attend their schools. This enables these

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officials to ascertain the family's poverty status without asking them to fill out the school lunch application. I will discuss this in more detail later in my testimony. It is time, this coming year, to move more boldly to incorporate these data. They need to be used, perhaps in the alternative, in the Pupil Needs Index (PNI), as a direct measure of a student's Extraordinary Need. You may recall that last year's final budget equally weighted 2000 census poverty at .65 and free or reduced-price lunch counts (FRPL) at .65 to arrive at a total poverty count at the district level. As I testified in February 2019, this results in a faulty proxy for poverty for many reasons.

### **What is wrong with FRPL?**

The income levels for Free and Reduced-Price Lunch are adjusted annually based on, respectively, 130% of the federal poverty rate and 185% of that rate. Other than for Alaska and Hawaii, there is no regional cost adjustment.<sup>3</sup>

In the 48 contiguous states, the District of Columbia, Guam and U.S. Territories, the yearly income limit for a family of four is \$47,640 for Reduced Price Meals and \$33,480 for Free Meals.<sup>4</sup> The federal poverty rate for a family of four of \$25,753 per year is thus about \$22,000 less than "Reduced" meal annual income limit, and about \$7,700 less than "Free" meal annual income. Yet many academic studies of "poverty" assume that these three income levels are deemed identical for statistical comparisons, even when doing studies within a state with the range of costs-of-living as wide as New York State's. I am suggesting that we need to continue to distinguish varying levels of poverty.

While we do employ a regional cost adjustment in our Foundation Aid formula, it could be re-examined given that it was established based on data nearly 15 years old. However, this is the least of the problems with FRPL going into 2020.

With the passage in 2010 of federal legislation ("Healthy, Hunger-Free Kids Act"),<sup>5</sup> Community Eligibility Programs (CEPs), now exist in 93%<sup>6</sup> of eligible communities

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<sup>3</sup> See Attachment 3 for current U.S. Census Bureau's Poverty Thresholds for other family configurations and sizes.

<sup>4</sup> Federal Register /Vol. 84, No. 54/Wednesday, March 20, 2019/Notices

<sup>5</sup> PUBLIC LAW 111-296—DEC. 13, 2010 124 STAT. 3183, at <https://www.fns.usda.gov/school-meals/healthy-hunger-free-kids-act>.

<sup>6</sup> See Food Research & Action Center, "Community Eligibility: The Key to Hunger-Free Schools School Year 2018–2019, dated May 2019, <https://www.frac.org/community-eligibility-database/>.

based on community poverty. The “free and reduced price” lunch counts traditionally collected in all of our state’s 700 school districts are no longer required for the school food programs in eligible communities, FRPL data, only used for students in K-6, are less reliable for the state as a whole. Although school districts that are either borderline or otherwise not certain of their CEP eligibility (at the 40% or over threshold), indeed collect and rely on student-level FRPL data, clearly the trend for most poor or mixed-wealth districts (and stated policy by the Governor’s office last year) is to avoid food shaming and unnecessary paperwork. New York City, for example, has, as of last year, moved all schools to universal free meals. So, how valid are statistics statewide based on the traditional parent-generated lunch forms? If the state continues with the method of three years’ lagging data, next year’s FRPL count will be based on 2016 through 2018 (3 lagged years) of FRPL data. As more schools move to CEP, the risk is that the lagged data will show consecutively reduced counts even with possibly increased actual student poverty. If FRPL is to be used at all, the State should look to New York City’s Fair Student Funding formula<sup>7</sup> for a better way to use the most recently collected year’s FRPL statistics (when they were last collected prior to conversion). New York City uses FRPL data for the *last year before the school converted to Universal School Meals (USM)*. But this method will not suffice ultimately as these data age. Instead, both New York City and the rest of the State needs to move to use Direct Certification data as a poverty measure for the purposes of the so-called Extraordinary Needs measure. The Extraordinary Needs measure is simply 1 plus the Pupil Needs Index, which in turn uses FRPL data and census poverty data, which I will discuss next.

### **What is Wrong with 2000 Census Poverty?**

This is fairly obvious—it is nearly 20 years out of date! Last year’s Pupil Needs Index persisted in the use of these 2000 Census Poverty pupil counts of students ages 5-17. Since school-level data were not collected in the 2010 Census, we have found ourselves in an absurd situation in an effort to have a fair proxy for the poverty of children above sixth grade, since FRPL does not count pupils above sixth grade.

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<sup>7</sup> See Attachment 2 to this testimony

Many communities in our state have changed dramatically with the arrival of middle and high school immigrants, shifts in commercial and industrial growth throughout the state, and other factors leading to changes in the degree of poverty at the school district level. You know that anecdotally for the districts you represent, but we need sound, reliable newer data to back up our anecdotes.

If we want to continue for this next two years to use the methodology of combining FRPL and Census poverty measures, which I am not sure we should, we must at least use newer sample-based census data, recognizing their limitations, and change the relative weighting.

As to newer data, budget policymakers tried using Small Area Income Poverty Estimates<sup>8</sup> from the Annual Community Surveys several years ago, but the undercount that resulted, presumably of homeless students, recent mid-year immigrants, foster children, and other possible response biases in large urban areas discouraged policymakers from repeating the use of SAIPE in the poverty formula.

So what is the solution? Many poverty experts recommend moving to Direct Certification data, meaning data collected by state or city level entities which coordinate with the United States Department of Agriculture's Food and Nutrition Service, Social Security Administration or Medicaid agencies in administering their aid programs at the local level. As I testified in February, there are a variety of programs that require an application containing family-level data in addition to the Free and Reduced-Price Lunch program administered by the United States Department of Agriculture.<sup>9</sup> They include programs administered through multiple agencies:

- 1) Office of Temporary and Disability Assistance:
  - Supplemental Nutrition Assistance Program (SNAP)
  - Temporary Assistance for Needy Families
    - Family Assistance
    - Temporary Assistance
    - Safety Net Assistance

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<sup>8</sup> <https://www.census.gov/programs-surveys/saipe/technical-documentation/methodology.html>

- Supplemental Security Income (SSI)
  - Home Energy Assistance Program (HEAP)
  - Refugee Services
- 2) Office of Children and Family Services
    - Foster Care
  - 3) Internal Revenue Service/NY State Department of Taxation
    - Earned Income Tax Credit
  - 4) Bureau of Indian Affairs Financial Assistance
  - 5) New York State Department of Health
    - Medicaid

New York State Education Department (NYSED) aggregates data from all these programs, calling students using these programs “Economically Disadvantaged.” While the League does not have specific recommendations about either the relative value, continuation or efficacy of these programs, it is logical that the facts requested from applicants for federal or state aid in the different programs might differ in terms of the depth of poverty required to qualify.

The State of New York must take the lead, this year, to more accurately use these Direct Certification data. As of this state fiscal year and the next (2019-20 and 2020-21), we will have no new decennial census data. Moreover, the accuracy of 2020 census for our state may be jeopardized by respondents’ fears of filling out government forms generally. The League and many other organizations are working hard on this issue, but for next year’s budget we must rely more on data obtained from the above-mentioned agencies and reject the use of census poverty data collected a generation of students ago.

Even we were to use census poverty data, it should never have been assigned the same weighting as FRPL counts. Simply put, census poverty as defined originally, before the advent of the so-called Supplementary Poverty Measure in 2011,<sup>10</sup> is a deeper level of poverty than free or reduced-price lunch, as illustrated above under the discussion of FRPL. Eligibility for Supplemental Nutrition Assistance Program SNAP and TANF is more nuanced. Based on my recent research about SNAP, the controversy over proposed changes to SNAP eligibility will continue in

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<sup>10</sup> <https://www.census.gov/library/publications/2018/demo/p60-265.html>

the foreseeable future, but as best I can ascertain, SNAP eligibility, with its multiple criteria, can be secured at an income level far above census poverty. While clearly there is controversy over this program and the related Temporary Aid to Needy Families in the current federal atmosphere, the data they generate, together with Medicaid data, should be used by New York State with a weighting that makes sense in an overall context. Whereas in the past the state has weighted FRPL counts at .65 and census poverty counts at .65 to arrive at a “blended” 1.3 weight for poverty, it is important that going forward the state strive to achieve a Direct Certification weighting option which comprises a sound judgment of both a) what percentage of a school district’s students are poor *but not included in the count* (thus weight up to account for this missing data) and b) how poor they are relative to one another, similar to the way that census poverty @ 100%, free lunch @ 130% and reduced lunch at 185% related to one another in the past.

Household income data from the annual population surveys can be used to achieve proxies for the portion of students who would fall into each category. To provide a very simple example: If a school district had 10,000 students and half of them were “Direct Certified” for a poverty program, the state could assume a 10% “nonresponse” rate (meaning the student is poor but not in the Direct Certification count), and thus count 6,000 students as poor. But how poor? The state could assume that 20% of the 6,000 were “census poverty poor”, 30% were at the 135% level, and 50% (of the 6,000) were at the 185% level. At least, by doing this sort of weighting, we would be using the entire school population and using reasonably current population estimates.

Why is this important? Of course we are concerned with adequacy of funding—that was the basis of the Campaign for Fiscal Equity lawsuit. However, this year you are once more facing a large budget shortfall and as such equity is needed.

While I welcome your questions, I profess no special expertise in the poverty programs to which I have referred. We encourage this committee to seek as much poverty agency expertise as possible before making decisions on poverty weightings and the portion of the school population that might be underweighted due to their parents’ fears of government generally. My testimony simply points out that the existing sources and weightings leave much room for improvement.

## Attachment 1 to December 3 testimony

Although the committee receiving this testimony is quite familiar with the policies and calculations listed below, the information herein is provided for the benefit of those who don't regularly read the annually-produced "State Aid Primer."

### CURRENT STATE LAW GOVERNING FOUNDATION AID

District Foundation Aid per Pupil = [Foundation Amount X Pupil Need Index X Regional Cost Index] – Expected Minimum Local Contribution.

- The Foundation Amount is the cost of providing general education services. It is measured by determining instructional costs of districts that are performing well. It is adjusted annually to reflect the percentage increase in the consumer price index (CPI). For 2007-08 aid, the Foundation Amount was \$5,258, and was further adjusted by the phase-in foundation percent (1.0768 for 2007-08). For 2019-20, the adjusted amount is: \$6,577 x 1.024 x 1.0000, or \$6,714.
- The Pupil Needs Index (PNI) recognizes the added costs of providing extra time and help for students to succeed. It is 1 + the Extraordinary Needs (EN) percent and ranges from 1 to 2. The EN% is based on:

Lunch count X .65 uses a 3-year average Free and Reduced-Price Lunch percent. Census count X .65 uses 2000 Census percent of persons age 5-17 in poverty. English Language Learners count X .50 uses base year pupils. Sparsity count Provides a factor ((25 – enrollment/square mile)/50.9) for districts with fewer than 25 pupils per square mile

Source: page 23, State Aid Primer 2019, New York State Department of Education

[http://www.oms.nysed.gov/faru/Primer/primer\\_cover.html](http://www.oms.nysed.gov/faru/Primer/primer_cover.html)

Estimated 2019-20 (\$ in millions)

Foundation Aid	\$18,409
Building including Reorganization Incentive	3,237
Transportation Aid	1,998
BOCES and Special Services Aids	1,238
Special Education Aids	1,038
Universal Pre-Kindergarten Grant	501
Subtotal:	\$26,421
General Support for Public Schools (GSPS)*	Total: \$27,289

\* Excludes Expanding our Children's Education and Learning (EXCEL) debt service, Smart Schools Bond Act funds, and competitive grants funded outside of GSPS.

## **Attachment 2 to December 3 testimony**

**New York City Poverty Weightings: more timely data but less numerical weight @ 12% (see color coded table on following page, under Academic Intervention sub-heading)**

**The following are excerpts from the Fair Student Funding information provided by the New York City Department of Education**

**Eligibility for Poverty Weight:** Students enrolled at schools that begin before grade 4 (e.g., all K–5, K–8, and K–12 schools) qualify for the poverty weight if they also qualify for free lunch (according to ATS lunch form data) and/or receive public assistance (according to data provided by New York City’s Human Resources Administration).

The poverty student count used in the FSF formula represents the previous year’s free lunch data as of mid-December, for the students on a school’s prior year register on October 31. Pupils are deemed free lunch eligible if there is a completed income eligibility form for the child or the student is receiving public assistance that has the same or lower income requirement as free lunch (SNAP, TANF).

At Universal Free Lunch (USM) schools, the poverty percentage for the school is established in the base year that the school enters the USM program. The poverty percentage is defined as the number of free lunch eligible pupils divided by the audited October 31 student register. The school is locked into that percentage for the next three years. For these schools, that percentage is multiplied by the total number of students on the previous year’s school registers at the school by the school’s locked in poverty percentage.

Schools receive the poverty weight for all eligible pupils regardless of whether the school meets the Title I eligibility cut-off.

FSF Category Type of Pupil/Need	Grade Span	Weights	FY 20 Per Capita
Grade Weight General Education and Special Education Pupils	K-5	1.00	\$ 4,109.01
	6-8	1.08	\$ 4,438.07
	9-12	1.03	\$ 4,231.89
Academic Intervention	Poverty	0.12	\$ 493.08
	4-5 Well Below	0.40	\$ 1,643.19
	4-5 Below	0.25	\$ 1,026.73
	6-8 Well Below	0.50	\$ 2,055.55
	6-8 Below	0.35	\$ 1,438.05
	9-12 Well Below	0.40	\$ 1,643.19
	9-12 Below	0.25	\$ 1,026.73
	9-12 Heavy Graduation Challenge OTC	0.40	\$ 1,643.19
	English Language Learner	K-5 Freestanding English as a New Language (ENL)	0.40
6-12 Freestanding English as a New Language (ENL)		0.50	\$ 2,055.55
K-5 Bilingual		0.44	\$ 1,807.96
6-12 Bilingual		0.55	\$ 2,259.96
K-5 Commanding		0.13	\$ 534.17
6-12 Commanding		0.12	\$ 493.08
K-12 Students with Interrupted Formal Education (SIFE)		0.12	\$ 493.08
Special Education Needs Weight	<=20% Low Frequency	0.56	\$ 2,301.30
	21% to 59% Medium Frequency	1.25	\$ 5,138.65
	K-8 >= 60% Contained High Frequency, High Intensity	1.18	\$ 4,852.00
	9-12 >= 60% Contained High Frequency, High Intensity	0.58	\$ 2,400.01
	K >= 60% Integrated High Frequency, Low Intensity	2.09	\$ 8,580.52
	1-12 >= 60% Integrated High Frequency, Low Intensity	1.74	\$ 7,150.26
Portfolio Schools	K-12 Post IEP Support	0.12	\$ 493.08
	CTE Tier 1	0.26	\$ 1,068.38
	CTE Tier 2	0.17	\$ 698.72
	CTE Tier 3	0.12	\$ 492.54
	CTE Tier 4	0.05	\$ 205.14
	Specialized Academic	0.25	\$ 1,026.73
	Specialized Audition	0.35	\$ 1,438.05
	Transfer - Heavy Graduation Challenge	0.40	\$ 1,643.19
Transfer - Regular Graduation Challenge	0.21	\$ 856.36	

Source: Fair Student Funding, Fiscal Year 2020, "Fair Student Funding Per Capita," Table 1.1f. See [https://www.nycenet.edu/offices/finance\\_schools/budget/DSBPO/allocationmemo/fy19\\_20/AM\\_FY20\\_FSF1.htm](https://www.nycenet.edu/offices/finance_schools/budget/DSBPO/allocationmemo/fy19_20/AM_FY20_FSF1.htm),

## Attachment 3 to December 3 testimony

### Poverty Thresholds

Poverty Thresholds for 2018 by Size of Family and Number of Related Children Under 18 Years

Size of family unit	Weighted average thresholds	Related children under 18 years								
		None	One	Two	Three	Four	Five	Six	Seven	Eight or more
One person (unrelated individual):	12,784									
Under age 65.....	13,064	13,064								
Aged 65 and older.....	12,043	12,043								
Two people:	16,247									
Householder under age 65.....	16,889	16,815	17,308							
Householder aged 65 and older.....	15,193	15,178	17,242							
Three people.....	19,985	19,642	20,212	20,231						
Four people.....	25,701	25,900	26,324	25,465	25,554					
Five people.....	30,459	31,234	31,689	30,718	29,967	29,509				
Six people.....	34,533	35,925	36,068	35,324	34,612	33,553	32,925			
Seven people.....	39,194	41,336	41,594	40,705	40,085	38,929	37,581	36,102		
Eight people.....	43,602	46,231	46,640	45,800	45,084	44,021	42,698	41,317	40,967	
Nine people or more.....	51,393	55,613	55,883	55,140	54,516	53,491	52,082	50,807	50,491	48,546

Source: U.S. Census Bureau.